

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: SAMUEL SHIEL

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No. 12-EEC-007

Appeal of OEIG
Revolving Door
Determination

DECISION

This cause is before the Executive Ethics Commission ("Commission") on appeal by the Office of the Attorney General from a determination by the Office of the Executive Inspector General for Agencies of the Illinois Governor.

FINDINGS OF FACT

A complete copy of the record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of the Attorney General's March 16, 2012 Brief in Support of Appeal, the March 20, 2012 Response of Samuel A. Shiel, the Office of the Executive Inspector General for Agencies of the Illinois Governor's March 21, 2012 Objection to Appeal of Revolving Door Determination, a March 23, 2012 e-mail from Walter Adams, Illinois State Counsel for Fidelity National Title Group, a March 23, 2012 e-mail from James P. Lanzetta of Stewart Title Guaranty Company, and a March 24, 2012 email from Douglas Smith of Stewart Title Guaranty Company.

Based upon this record, the Commission makes the following findings of fact:

1. On March 8, 2012, the Office of the Executive Inspector General for Agencies of the Illinois Governor (OEIG) made a revolving door determination pursuant to 5 ILCS 430/5-45(f) with respect to Samuel A. Shiel's (Shiel) proposed employment with Title Resources Guaranty (TRG).
2. The determination concluded that "**you are not restricted** from accepting the employment opportunity described in your materials by the Revolving Door prohibitions of the State Officials and Employees Ethics Act." (emphasis in original).
3. On March 16, 2012, the Office of the Illinois Attorney General filed a brief in support of its appeal.
4. Shiel serves as Deputy General Counsel for the Illinois Department of Financial and Professional Regulation (IDFPR) and has been Supervisor of the Title Insurance Section since November 2011.
5. In July of 2011, TRG submitted an application to IDFPR to obtain a Certificate of Authority to transact the business of title insurance in Illinois.
6. According to Shiel's ethics officer, "Shiel was responsible to review and approve applications for registration and certificates of authority for title insurance agents and companies."
7. According to an affidavit from Shiel's predecessor, Michael Rooney, however, Rooney handled the initial analysis and review of TRG's application. Rooney noted that some documents were

missing and others required explanation. Rooney requested these documents and explanations from TRG.

8. Prior to his retirement, Rooney recommended approval of TRG's application to Roxanne Nava, Director of the Division of Financial Institutions, once all the documents were received from TRG. Rooney asserts that Nava concurred in Rooney's judgment and that she would approve TRG's application and issue the Certificate of Authority once the documents had been entered.
9. After his predecessor's retirement in September 2011, Shiel became the point of contact and handled all discussions and requests for information with TRG.
10. According to Shiel's revolving door submission, his responsibilities include reviewing applications for certificates of authority for title insurance companies for accuracy and content.
11. According to an interview report from the Office of the Executive Inspector General, the TRG application lacked information from other states in which it was licensed and lacked an original pledge agreement. Shiel contacted TRG to obtain an original pledge agreement.
12. In January 2012, Shiel was approached by an employee of an affiliated company about a position with TRG. Shiel had worked with this employee at the affiliated company.
13. On February 14, 2012, Shiel signed a letter to TRG, enclosing a Certificate of Authority to conduct title insurance business in the State of Illinois.
14. On February 16, 2012, TRG offered Shiel a position as Underwriting Counsel with TRG.
15. Shiel anticipated beginning employment with TRG on March 16 or March 19, 2012.
16. In the year prior to Shiel's termination of State employment, he had certain involvement concerning the making of a regulatory or licensing decision that directly applied to TRG.
17. According to the Office of the Attorney General, Shiel's role in making a regulatory or licensing decision that directly applied to TRG took the form of overseeing, reviewing and approving TRG's Certificate of Authority to conduct business in the State of Illinois.
18. The Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

CONCLUSIONS OF LAW

1. An Executive Inspector General's determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. The present appeal of the March 8, 2012 revolving door determination made by the OEIG pursuant to 5 ILCS 430/5-45(f) with respect to Samuel A. Shiel's proposed employment is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (b) currently provides:

No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary. 5 ILCS 430/5-45(b).

4. Shiel participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary when he communicated with TRG about materials missing from its application.
5. Shield participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary when he communicated with TRG and examined documents for accuracy and completeness related to TRG's application for a Certificate of Authority to conduct business in the State of Illinois.
6. Shiel's personal and substantial participation in these matters occurred within one year of his anticipated termination of State employment on March 16, 2012 or March 19, 2012.
7. The Ethics Act provides that "[i]n deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission...shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based upon the totality of the participation by the former officer, member, or State employee in those decisions." 5 ILCS 430/5-45(g).
8. The Commission considers the following relevant information as aggravating:
 - a. The fact that Shiel served as supervisor of the Title Insurance Section.
 - b. The fact that Shiel was TRG's point of contact and handled all discussions and requests for information with TRG since September 2011.
 - c. The fact that Shiel was approached about a position with TRG while he was in a position responsible for reviewing, overseeing and approving TRG's application.
 - d. The fact that TRG offered Shiel an employment opportunity two days after Shiel sent TRG a letter enclosing a Certificate of Authority to conduct title insurance business in the State of Illinois.
9. The Commission considers the following relevant information as mitigating:
 - a. The fact that Shiel's predecessor handled the initial analysis and review of TRG's application for a Certificate of Authority to conduct business in the State of Illinois.
 - b. The fact that Shiel's predecessor recommended to the Director of Financial Institutions that TRG's application be approved pending receipt of certain documents and explanations and that the Director of Financial documents agreed with this judgment prior to Shiel's involvement.
 - c. The fact that Shiel's direct involvement with TRG appears to be limited to communications requesting original copies of documents.
 - d. The fact that Shiel had previously worked for a company affiliated with TRG.

10. Considering all relevant information and the effect of the prospective employment upon the decisions referred to in subsections (a) and (b) of 5 ILCS 430/5-45, the Commission finds, based upon the totality of Shiel's participation in those decisions, that Shiel should/should not be barred from accepting the employment with TRG described in his revolving door notification form.


WHEREFORE, for the foregoing reasons, the Commission denies the Attorney General's appeal and affirms the OEIG's March 8, 2012 determination. Samuel A. Shiel's proposed employment with Title Resources Guaranty would not violate the State Officials and Employees Ethics Act's revolving door prohibition.

This is a final administrative decision and subject to the Administrative Review Law.

ENTERED: March 26, 2012

SO ORDERED.

The Executive Ethics Commission

By: 
Chad D. Fornoff
Executive Director